

DISTRICT COURT OF GUAM
TERRITORY OF GUAM
**AMENDED CRIMINAL MINUTES
SENTENCING**

FILED
DISTRICT COURT OF GUAM

FEB - 9 2006

MARY L.M. MORAN
CLERK OF COURT

CASE NO. CR-04-00056

DATE: February 8, 2006

HON. LARRY ALAN BURNS, Designated Judge

Law Clerk: NONE PRESENT

Court Reporter: Wanda Miles

Courtroom Deputy: Leilani Toves Hernandez

Hearing Electronically Recorded: 11:08:18 - 11:48:07

CSO: J. McDonald / J. Lizama

***** A P P E A R A N C E S *****

DEFT: MAX S. MENDIOLA

ATTY: PETER C. PEREZ

(X) PRESENT (X) CUSTODY () BOND () P.R.

(X) PRESENT (X) RETAINED () FPD () CJA APPOINTED

U.S. ATTORNEY: KARON JOHNSON

AGENT:

U.S. PROBATION: CARLEEN BORJA

U.S. MARSHAL: C. MARQUEZ / S. LUJAN

(X) COURT STATES THE APPROPRIATE BASE OFFENSE LEVELS

Base offense level: 30

Total offense level: 29

Criminal History Category: III

NO OBJECTIONS BY THE GOVERNMENT AND DEFENSE

(X) ATTORNEY FOR DEFENDANT ADDRESSES THE COURT:

Sentence the defendant below the mandatory, at a Level 18

() DEFENDANT ADDRESSES THE COURT AND APOLOGIZES

(X) GOVERNMENT ADDRESSES THE COURT AND MAKES ITS RECOMMENDATION:

Counsel noted the criminal history category

() LETTER(S) OF RECOMMENDATION RECEIVED BY THE COURT

NOTES/OTHER MATTERS:

Government's Motion for Downward Departure - Granted.**

The Court Ordered the corrections be made to the Presentence Report as noted on the record.

Defense requested for the defendant to be allowed to self-surrender pending designation of bureau of prisons.- Denied.

Defense also requested for a judicial recommendation for either the Lompoc, California or Sheridan, Oregon facilities. - Granted

**Amended to include the information regarding the Motion for Downward Departure

(X) DEFENDANT COMMITTED TO THE BUREAU OF PRISONS FOR A TERM OF 90 MONTHS. WHILE IN PRISON, THE DEFENDANT SHALL PARTICIPATE IN THE 500 HOUR INTENSIVE DRUG TREATMENT PROGRAM APPROVED BY THE BUREAU OF PRISONS.

(X) COURT RECOMMENDATION TO THE BUREAU OF PRISONS AT LOMPOC, CALIFORNIA OR SHERIDAN, OREGON.

(X) UPON RELEASE FROM IMPRISONMENT, DEFENDANT IS PLACED ON SUPERVISED RELEASE FOR A TERM OF FIVE YEARS.

THE TERM OF SUPERVISED RELEASE WILL INCLUDE THE FOLLOWING CONDITIONS:

1. DEFENDANT SHALL NOT COMMIT ANOTHER FEDERAL, STATE, AND LOCAL CRIME.
2. DEFENDANT SHALL NOT UNLAWFULLY POSSESS A CONTROLLED SUBSTANCE AND SHALL REFRAIN FROM ANY UNLAWFUL USE OF A CONTROLLED SUBSTANCE. HE SHALL SUBMIT TO UP TO EIGHT DRUG TESTS A MONTH FOR USE OF A CONTROLLED SUBSTANCE.
3. DEFENDANT SHALL SUBMIT TO THE COLLECTION OF A DNA SAMPLE AT THE DIRECTION OF THE U.S. PROBATION OFFICE.
4. DEFENDANT SHALL COMPLY WITH THE STANDARD CONDITIONS OF SUPERVISED RELEASE.
5. DEFENDANT SHALL BE PROHIBITED FROM POSSESSING A FIREARM OR OTHER DANGEROUS WEAPON.
6. DEFENDANT SHALL REFRAIN FROM THE USE OF ALL ALCOHOLIC BEVERAGES.
7. DEFENDANT PARTICIPATE IN A PROGRAM APPROVED BY THE U.S. PROBATION OFFICE FOR SUBSTANCE ABUSE, WHICH PROGRAM MAY INCLUDE TESTING TO DETERMINE WHETHER THE DEFENDANT HAS REVERTED TO THE USE OF DRUGS OR ALCOHOL

ALL FINES WERE WAIVED BY THE COURT. DEFENDANT WAS ORDERED TO PAY A SPECIAL ASSESSMENT FEE OF \$100.00.

COURT STATED THE JUSTIFICATION OF THE SENTENCE IMPOSED. DEFENDANT WAS ADVISED OF HIS APPEAL RIGHTS. DEFENDANT WAS REMANDED TO THE CUSTODY OF THE U.S. MARSHALS SERVICE.

Courtroom Deputy: 